

REMARKS

In a Final Office Action dated 20 May 2005, the Examiner rejected claims 1 – 10 under 35 U.S.C. 102(b) as being anticipated by the prior art system disclosed in Figures 1 and 2 of Applicant's specification. Applicant provides the above-listed amendments and the following remarks in support of patentability of claims 1 – 10.

The Examiner rejected claims 1 – 10 under 35 U.S.C. 102(b) as being anticipated by the prior art system disclosed in Figures 1 and 2 of Applicant's specification. The Examiner, in rejecting Applicant's claims, simply selected one complete (bi-directional) cable modem termination system as an "upstream" example and another complete (bi-directional) cable modem termination system located at a different level of the network as a "downstream" example. However, it should be noted that there is no suggestion in the cited prior art of splitting the cable modem termination system disclosed in Figures 1 and 2 of Applicant's specification into separate exclusively upstream and exclusively downstream components, which are located at separate levels of the network.

In contrast, Applicant's claim language in amended independent claim 1, for example, recites "downstream broadband cable modem component means ... transmitting ... exclusively in a downstream direction through said network" and "upstream broadband cable modem component means ... transmitting ... exclusively in an upstream direction through said network" as two separate elements, located at different levels of the hierarchical network. The amended independent claims 1 and 6 also specifically note the physical separation of the operating components of the cable modem termination system as "upstream broadband cable modem component means ... independent of said downstream broadband cable modem component means". This structure is not shown or suggested by the cited prior art, which is limited to bi-directional cable modems.

With the above presented amendments to claims 1 and 6, Applicant believes that Independent claims 1 and 6 are allowable under 35 U.S.C. 102(b) over the prior art cable modem termination systems as shown in Figures 1 and 2 of Applicant's specification. These independent claims now specifically recite the division of the functions performed by the cable modem termination system into separate and independent upstream and

Serial No.09/766,736
Amendment And Remarks Responsive To
Final Office Action Mailed 05/20/2005
Page 5 of 6
219205v2

downstream components, which are located at different levels of the hierarchical broadband network. The amendments clarify the recitation of the originally submitted independent claims without the addition of new matter, and Applicant believes that these claims overcome the present rejection. In addition, Applicant believes that dependent claims 2 – 5 and 7 – 10 are also allowable under 35 U.S.C. 102(b) over the prior art cable modem termination systems as shown in Figures 1 and 2 of Applicant's specification, since these claims depend on allowable base claims.

Summary

Applicant respectfully requests a Notice of Allowance of claims 1 – 10 in this application in light of the amendments and remarks set forth herein. The undersigned attorney requests Examiner Raman to telephone if a conversation could expedite the prosecution of this application. Applicant authorizes the Commissioner to charge any required payment of fees to Deposit Account No. 12-2325.

Respectfully submitted,
PATTON BOGGS LLP

Date: 19 AUGUST 2005

By: James M. Graziano

James M. Graziano, Reg. No. 28,300
Telephone: (303) 894-6113
Facsimile: (303) 894-9239

Customer No.: 24283

Serial No.09/766,736
Amendment And Remarks Responsive To
Final Office Action Mailed 05/20/2005
Page 6 of 6

219205v2